

James S. Davis, OSB# 982070
P.O. BOX 7399
Salem, OR 97303
Telephone: (503) 363-8661
Facsimile: (503) 363-8681
Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

MONICA GARCIA,
Plaintiff,
v.
WILLIAM AMES CURTRIGHT, AMES
PROPERTIES LLC, AMES RESEARCH
LABORATORIES,
Defendants.

) Case No.11-6470 HO
)
) AMENDED COMPLAINT: NONPAYMENT OF
) WAGES AND VIOLATION OF FEDERAL
) MINIMUM WAGE LAW 29 U.S.C. § 201;
) VIOLATION OF TVPRA 18 U.S.C. § 1589
) FORCED LABOR; VIOLATION OF 42
) U.S.C. § 1981 DISCRIMINATION IN
) CONTRACTS/CONTRACTUAL
) RELATIONSHIP.
)
)
) DEMAND FOR JURY TRIAL
)

PRELIMINARY STATEMENT

1. Monica Garcia ("Plaintiff") brings this action against William Ames Curtright, Ames Properties, LLC, and Ames Research Laboratories ("Defendants") under the federal Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 201 *et seq.*, for unpaid wages, 18 U.S.C. § 1595 acts of forced labor, and 42 U.S.C. § 1981 discrimination in contracts or contractual relationship. Plaintiff seeks wages due to her under 29 U.S.C. §§ 206, 207, 216(b), liquidated damages for failure to pay wages under 29 U.S.C. § 216(b), damages under 18 U.S.C. § 1595, and all other damages allowable by law.

AMENDED COMPLAINT - 1

JAMES S DAVIS ATTORNEY AT LAW P.C
P.O. BOX 7399
SALEM, OR 97303
OFFICE (503) 363-8661 FAX (503) 363-8681

JURISDICTION

2. Jurisdiction for minimum wage claims exists under the FLSA, 29 U.S.C. § 216(b). Jurisdiction also exists under 28 U.S.C. § 1337 for claims arising under a federal statute regulating commerce.

PARTIES

3. Plaintiff was employed by William Ames Curtright, Ames Properties, LLC, and Ames Research Laboratories.

4. Plaintiff, Monica Garcia, is a resident of Oregon.

5. Defendants, Ames Properties, LLC, Ames Research Laboratories are Businesses in the State of Oregon.

6. Defendant William Ames Curtright is the owner of Ames Properties, LLC, Ames Research Laboratories.

FACTS

7. Defendant William Ames Curtright (Curtright) is the owner of Ames Properties, LLC, and Ames Research Laboratories. Although incorporated, Curtright uses these business and their assets as his own by paying for personal care and services to Curtright and his family members.

8. On or about September 1, 2006, Curtright hired plaintiff to work cleaning his home, offices and properties. Curtright also hired her husband to work at his business Ames Research Laboratories.

9. Plaintiff worked cleaning the home, cleaning at his factories, caring for his mother, and cleaning properties owned by Curtright. For some services Curtright would pay her through his businesses Ames Properties, LLC, and Ames Research Laboratories. For other service to Curtright's family members Plaintiff was forced to work under the threat of deportation.

1 10. In July of 2007, Curtright's mother started to progress with
2 Alzheimer's and Curtright requested Plaintiff care for his mother.
3 Plaintiff would drive to Albany 6 days a week to care for Curtright's
4 mother.

5 Plaintiff's worked from 9:00 A.M. to 6:00 P.M. 6 days a week.
6 When Plaintiff received her first check for the care of Curtright's
7 mother, she noticed that there was no overtime pay for the hours she
8 worked over 40 hours. Plaintiff would receive vacation and overtime
9 pay while working for Ames Properties, LLC, and Ames Research
10 Laboratories.

11 12. When Plaintiff complained Curtright informed plaintiff that he
12 was aware that she was not an American Citizen, and that if she
13 complained he would have Plaintiff and her family deported.

14 13. When Plaintiff complained, Curtright made it clear that he was
15 politically connected, had been a candidate for Governor, and had
16 friends in government that would deport Plaintiff and her family.

17 14. Curtright was aware of the status of plaintiff and her family
18 because plaintiff and her husband had worked for Curtright prior to
19 his failed attempt to be elected Governor. When he entered the race
20 for Governor he meet with Plaintiff and her husband and told them that
21 he had to terminate their employment because if the information came
22 out that he was employing illegal workers, it could hurt his campaign
23 for Governor.

24 15. In April of 2008, Curtright mothers Alzheimer's progressed and
25 she required 24 hour care. Curtright also wanted his mother removed
26 from his home. Under threats of deportation, Curtright forced
27 Plaintiff to care for his mother 24 hours a day in Plaintiff's home.
28

AMENDED COMPLAINT - 3

JAMES S DAVIS ATTORNEY AT LAW P.C.
P.O. BOX 7399
SALEM, OR 97303
OFFICE (503) 363-8661 FAX (503) 363-8681

1 Curtright force Plaintiff to move her children out of their bedroom,
 2 to sleep on the floor, and Plaintiff's children's room for the care of
 3 Curtright's mother.

4 16. Curtright by use of threats forced Plaintiff to be with his
 5 mother 24 hours a day. Stating in a letter dated November 13, 2008, "I
 6 expect Monica to be with Mom all day and night. I have authorized an
 7 adult sitter to be with Mom only while Monica cleans the house and on
 8 Sundays during Church."

9 17. Plaintiff was required to provide care for Curtright's mother 24
 10 hours a day. She was not given vacation. When Plaintiff did take
 11 family trips she was required to bring Curtright's mother with her.

12 18. Plaintiff was paid less than \$5.00 an hour well below the federal
 13 minimum wages.

14 19. Curtright used his businesses Ames Properties, LLC, and Ames
 15 Research Laboratories to pay for the private care of his mother, his
 16 home, and family. This use of business proceeds was for his personal
 17 use and family use.

18 20. Defendants have also failed to pay the minimum wage of \$8.40 per
 19 hour as required by Oregon Law.

20 21. Plaintiff has made a demand for the unpaid wages.

21 **CLAIMS FOR RELIEF**

22 **(First Claim - Violation of FLSA)**

23 22. Plaintiff realleges paragraphs 1-21.

24 23. Under 29 U.S.C. § 206, Defendants are required to pay Plaintiff
 25 the federal minimum wage.

26 24. Under 29 U.S.C. § 207, Defendants are required to pay Plaintiff
 27 time and a half for time worked in excess of forty hours per week.

1 25. Under 29 U.S.C § 216(b), Defendants owe Plaintiff unpaid wages in
2 the amount of \$174,035.00 and an amount equal to the unpaid wages as
3 liquidated damages.

4 26. Plaintiff is entitled to costs and reasonable attorney fees, in an
5 amount to be determined at trial, pursuant to 29 U.S.C. § 216(b).

6 **(Second Claim for Relief - Violation of 18 U.S.C. § 1589)**

7 27. Plaintiff realleges paragraphs 1-26.

8 28. Under 18 U.S.C § 1589 whoever knowingly provides or obtains the
9 labor or services of a person by any one of, or by any combination of,
10 the following means, 1) by means of force, threats of force,... 3) by
11 means of the abuse or threatened abuse of law or legal process; or 4)
12 by means of scheme, plan, or pattern intended to cause the person to
13 believe that, if that person did not perform such labor or services,
14 that person or another person would suffer serious harm....

15 29. Defendants by the use of threats of harm and threatened abuse of
16 law or legal process force Plaintiff to move Curtright's mother into
17 her home and care for her 24 hours a day without pay or for pay below
18 the minimum wage under threats of deportation of Plaintiff and her
19 family.

20 30. Under 18 U.S.C § 1595, Defendants owe Plaintiff unpaid wages in
21 the amount to be determined at trial.

22 31. Plaintiff is entitled to costs and reasonable attorney fees, in an
23 amount to be determined at trial, pursuant to 18 U.S.C. § 1595.

24 **(Third Claim for Relief - Violation of 42 U.S.C. § 1981)**

25 32. Plaintiff realleges paragraphs 1-31.

26 33. 42 U.S.C. § 1981 provides in relevant part: "All persons within
27 the jurisdiction of the United States shall have the same right in
28

1 every State and Territory to make and enforce contracts, to sue, be
2 parties, give evidence, and to the full and equal benefit of all laws
3 and proceedings for the security of persons and property as is enjoyed
4 by white citizens, and shall be subject to like punishment, pains,
5 penalties, taxes, licenses and exactions of every other kind, and to
6 no other."

7 34. Plaintiff was discriminated against on the basis of her race,
8 national origin, and ethnicity. This constituted a denial of the full
9 and equal benefit of the laws "enjoyed by white citizens."

10 35. Defendants discriminated against Plaintiff on the basis of her
11 race, national origin, and ethnicity in the performance of her
12 employment contract, and in the enjoyment of all benefits, privileges,
13 terms, and conditions of the contractual relationship in violation of
14 42 U.S.C. § 1981.

15 36. Defendants discriminated against Plaintiff in the performance of
16 her employment contract and in the enjoyment of all benefits,
17 privileges, terms and conditions of the contractual relationship by
18 forcing Plaintiff to work for no wages or wages below that received by
19 white citizens in violation of 42 U.S.C. § 1981.

20 37. As a result of Defendants' violations of 42 U.S.C. § 1981,
21 Plaintiff has suffered economic damages and non-economic damages in an
22 amount to be determined at trial. Plaintiff seeks recovery of all
23 equitable relief and compensatory and punitive damages provided by
24 law, in addition to reasonable attorney fees and costs pursuant to 42
25 U.S.C. § 1988.

26 //

27 //

28 AMENDED COMPLAINT - 6

JAMES S DAVIS ATTORNEY AT LAW P.C.
P.O. BOX 7399
SALEM, OR 97303
OFFICE (503) 363-8661 FAX (503) 363-8681

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests the following for her claims for relief:

1. For Plaintiff's First Claim for Relief against Defendants:

A. Declare that the Defendant violated the Fair Labor Standards Act and applicable Oregon law by failing to pay wages as alleged;

B. Award of unpaid wages plus interest and liquidated damages under 29 U.S.C § 216(b);

- C. Award Plaintiff the cost and fees of maintaining this suit;
- D. Grant such other relief as this Court deems just and proper

2. For Plaintiff's Second Claim for Relief against Defendants:

- A. Declare that the Defendant violated TVPRA 18 U.S.C. § 1589.
- B. Award of unpaid wages plus interest under 18 U.S.C § 1595;
- C. Award Plaintiff the cost and fees of maintaining this suit;
- D. Grant such other relief as this Court deems just and proper

3. For Plaintiff's Third Claim for Relief against Defendants:

Plaintiff seeks recovery of all equitable relief, economic, compensatory, and punitive damages provided by law, in addition to reasonable attorney fees and costs pursuant to 42 U.S.C. § 1988.

DATED this 25th day of January, 2012.

James S. Davis OSB#98207
Attorneys for Plaintiff
P.O. Box 7399
Salem, Oregon 97303

AMENDED COMPLAINT - 7

JAMES S DAVIS ATTORNEY AT LAW P.C.
P.O. BOX 7399
SALEM, OR 97303
OFFICE (503)363-8661 FAX (503) 363-8681

TRUE COPY CERTIFICATION

I certify the foregoing AMENDED COMPLAINT is an exact and complete copy of the original thereof.

DATED this 25TH day of January, 2012.


James S. Davis OSB#982070
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I certify that on the 25th day of January, 2012, I served the foregoing AMENDED
COMPLAINT on the following by sending an exact and complete copy thereof by:

Fax

XX E-Mail TRANSMISSION (Federal Filing)

XX UNITED STATES POST OFFICE at Salem, Oregon with Postage paid
addressed to the respective party, as shown below, at that
Party's regular address.

Tyler Smith and Associates
181 N Grant St. STE 212
Canby, OR 97013


James S. Davis OSB#982070
Attorneys for Plaintiff